IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1103 (S/S) of 2007

Harish Bhatt S/o Sri Narayan Datt Bhatt
R/o Ward No. 20 Khatima, Tehsil Khatima,
District- Udham Singh Nagar ------- Petitioner

Versus

1. State of Uttarakhand through Principal Secretary Education, Dehradun
2. The Director of Basic Education, Uttarakhand, Dehradun
3. The Principal, District Institute of Education and Training, Rudrapur, District Udham Singh Nagar

------- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri S.C. Bhatt, learned counsel for the petitioner and Sri N.P. Shah, learned Standing Counsel State of Uttarakhand for the respondents.

The petitioner has preferred the instant writ petition for the following reliefs:-

i. Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 3 to entertain the application of the petitioner in pursuance of the advertisements and further consider the candidature of the petitioner for Special B.T.C. training and appointment of the post of Assistant Teacher in Primary Schools in accordance with law.

ii. Issue any other writ, order or direction, which this Hon'ble court may deem fit and proper under the circumstances of the case.

Stand of the petitioner is that in pursuance of the advertisement issued in the year 2006, he applied for Special B.T.C. Training Course. The petitioner is fully qualified to be selected for the training of Special B.T.C. Course as he passed his B.Sc. Examination from Kumaon University and has passed his B.Ed. Degree as regular student in the year 2004-2005 from Chaudhary Charan Singh University, Meerut. The petitioner obtained provisional marks-sheet on 12.05.2006 before publication of advertisement for selection in the Training of Special B.T.C. Course. In fact, the original marks-sheet was issued to the petitioner on 24.07.2006.

Though, the last date of submission of applications for Special B.T.C. Training Course was 10th August 2006 and the advertisement was published on 10.07.2006. Since there was a clause in the advertisement that on the date of publication of advertisement, the candidate must possess the marks-sheet and other certificates. In these circumstances, the Principal of the concerned District Institute of Educational Training (for brevity the DIET) has not considered application of the petitioner for selection in Special B.T.C. Training Course.

Learned counsel for the petitioner has drawn attention of the Court towards para-4 of the writ petition in which it is stated that respondent no. 3 i.e., Principal, DIET Rudrapur, District Udham Singh Nagar has, in the similar matter, amended his advertisement for L.T. trainees and stated therein that till the last date of advertisement, the candidate should have obtained the degree whereas for the B.Ed. trainees, he

stated that till the date of advertisement, the candidate should have obtained B.Ed. degree. Thus, the act of the respondents is a clear cut case of discrimination. It has been further stated that in district Champawat, Rudraprayag and Uttarkashi, the training institutes have given admission to the candidates on the similar footing.

Learned Standing Counsel has submitted that the petitioner along with his applications, has not annexed the provisional marks-sheet, however he has submitted original marks-sheet which was issued to him on 24.07.2006 and since there was a clause in the advertisement itself that the candidates must possess the marks-sheet of B.Ed. Degree on the date of publication of the advertisement, consequently, candidature of the petitioner was not considered. Learned Standing Counsel has further submitted that it is the prerogative of the State Government to stipulate cut of date in recruitment matters which cannot be challenged by any aspirant, after having applied in pursuance thereof.

I am in agreement of the arguments advanced by the learned Standing Counsel that it is the prerogative of the State Government to fix cut of date in recruitment matters, which is not arbitrary and has nexus to the object sought to be achieved. In the present case, in fact, there appears no question of challenging the cut of date, instead the question arises that according to the advertisement, whether the candidates have in their possession the Degree and the mark-sheets issued to them is of on or prior to the date of publication of advertisement or not? Besides it, the petitioner has made assertion in the writ petition that in the identical circumstances,

candidature of some aspirants was considered by the DIET of other districts such as Champawat, Rudraprayag and Uttarkashi, but since the candidature of the petitioner has not been considered, it is a clear case of discrimination.

Since, this Court cannot decide the disputed question of facts under Article-226 of the Constitution of India, I deem it just and proper to direct the petitioner to approach to the Director of Basic Education, Uttarakhand, Dehradun for redressal of his grievances and the Director of Basic Education may pass appropriate orders on the application of the petitioner, keeping in view the observations made in the body of the judgment, within a period of ten days from the date of production of a certified copy of this order, along with the representation, if any moved before him.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

18.08.2007
VKS